

APPEAL NO. 040804  
FILED JUNE 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on March 17, 2004. With respect to the disputed issues the hearing officer determined that the respondent (claimant) sustained a compensable low back injury on \_\_\_\_\_, and that the claimant had disability from July 24, 2003, to the date of the CCH.

The appellant (carrier) appealed, contending that the claimant did not sustain a compensable injury, that any injury the claimant had was "a spontaneous idiopathic injury," and that because the claimant did not have a compensable injury the claimant did not have disability. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant worked in the employer's warehouse and testified that on \_\_\_\_\_, as he bent over to duck under some hoses to close a "backup" he felt and heard a pop in his low back and experienced pain. The claimant saw a doctor the same day and eventually was diagnosed with a broad based disc bulge (also referred to as a herniation) at L3-4.

The carrier, on appeal, suggests this is a spite claim because the claimant had been demoted, that simply bending over would not result in a compensable injury, that the claimant's injury was a spontaneous idiopathic injury, and that without a compensable injury the claimant cannot by definition have disability. These contentions all involve factual determinations which the hearing officer resolved in the claimant's favor. The hearing officer in Finding of Fact No. 3 found a low back injury and in his background information commented that the claimant's testimony was credible. The hearing officer's determination on disability is supported by both the claimant's testimony and medical evidence.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. The hearing officer did not err in his application of the law and his decision is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
701 BRAZOS STREET, SUITE 1050  
AUSTIN, TEXAS 78701.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Chris Cowan  
Appeals Judge